CUSTOMS BULLETIN AND DECISIONS

Weekly Compilation of

Decisions, Rulings, Regulations, Notices, and Abstracts

Concerning Customs and Related Matters of the

U.S. Customs Service

U.S. Court of Appeals for the Federal Circuit

and

U.S. Court of International Trade

VOL. 31 NOVEMBER 12, 1997 NO. 46

This issue contains:

DEPARTMENT OF THE TREASURY
U.S. CUSTOMS SERVICE

NOTICE

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U.S. Customs Service

Treasury Decisions

19 CFR Part 111

(T.D. 97–86)

ANNUAL USER FEE FOR CUSTOMS BROKER PERMIT

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of due date for broker user fee.

SUMMARY: This document advises Customs brokers that for 1998 the annual user fee of $125 that is assessed for each permit held by an individual, partnership, association or corporate broker is due by January 9, 1998. This announcement is being published to comply with the Tax Reform Act of 1986.

DATES: Due date for fee: January 9, 1998.

FOR FURTHER INFORMATION CONTACT: Adline Tatum, Entry (202) 927–0380.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Pub. L. 99–272) established that an annual user fee of $125 is to be assessed for each Customs broker permit held by an individual, partnership, association or corporation. This fee is set forth in the Customs Regulations in § 111.96 (19 CFR 111.96).

Section 111.96, Customs Regulations, provides that a user fee for brokers is payable for each calendar year and that the fee is payable by the due date which will be published in the Federal Register annually. The fee is to be paid at each Broker district where the broker is issued a permit to do business. Broker districts are defined in a General Notice that was published in the Federal Register (60 FR 49971) on September 27, 1995.

Section 1893 of the Tax Reform Act of 1986 (Pub. L. 99–514) provides that notices of the date on which a payment is due of the user fee for each broker permit shall be published by the Secretary of the Treasury in the

Federal Register by no later than 60 days before such due date. This document notifies brokers that for 1998, the due date for payment of the user fee is January 9, 1998. It is expected that the annual user fees for brokers for subsequent years will be due on or about the third of January of each year.

Dated: October 23, 1997.

ANNE. K. LOMBARDI,
Acting Director,
Trade Compliance.

[Published in the Federal Register, October 29, 1997 (62 FR 56073)]

(T.D. 97–87)

SYNOPSES OF DRAWBACK DECISIONS

The following are synopses of drawback contracts approved May 23, 1997 to July 25, 1997, inclusive, pursuant to Subpart C, Part 191, Customs Regulations; and approvals under Treasury Decision 84–49.

In the synopses below are listed for each drawback contract approved under 19 U.S.C. 1313(b), the name of the company, the specified articles on which drawback is authorized, the merchandise which will be used to manufacture or produce these articles, the factories where the work will be accomplished, the date the proposal was signed, the basis for determining payment, the Port Director to whom the contract was forwarded or approved by, and the date on which it was approved.

Date: October 24, 1997.

WILLIAM G. ROSOFF,
(for John Durant, Director,
Commercial Rulings Division.)

(A) Company: Allied Apical Co., Inc.
Articles: Polyimide film
Merchandise: FEP film; teflon FEP fluorocarbon resin dispersion; 1,2,4,5-tetra-carboxylic dianhydride; 4,4-oxydianiline; isoquinoline; N,N-dimethylformamide
Factory: Pasadena, TX
Proposal signed: March 21, 1997
Basis of claim: Used in
Contract forwarded to PD of Customs: Houston, July 9, 1997

(B) Company: American & Efird, Inc.
Articles: Spun polyester greige and finished sewing thread
Merchandise: Polyester staple fiber greige yarn
Factories: Mount Holly, NC (3)
Proposal signed: September 25, 1996
Basis of claim: Appearing in
Contract forwarded to PD of Customs: New York, July 21, 1997

(C) Company: ARCO Chemical Co.
Articles: Ethylbenzene; propylene oxide; styrene monomer
Merchandise: Ethylene; benzene; propylene
Factory: Channelview, TX
Proposal signed: May 23, 1997
Basis of claim: Used in, with distribution to the products obtained in accordance with their relative values at the time of separation
Contract issued by PD of Customs: Houston, June 24, 1997
Revokes: T.D. 95–70–A to cover change in location of factory

(D) Company: ARCO Chemical Co.
Articles: Polyols
Merchandise: Propylene; ethylene oxide; styrene; acrylonitrile
Factories: Channelview, TX; South Charleston & Institute, WV
Proposal signed: May 23, 1997
Basis of claim: Appearing in
Contract issued by PD of Customs: Houston, June 24, 1997
Revokes: T.D. 95–34–B to cover change in location of factories

(E) Company: ASEC Manufacturing (Partnership)
Articles: Washcoat powders
Merchandise: Lanthanum oxide; cerium carbonate
Factory: Catoosa, OK
Proposal signed: May 13, 1997
Basis of claim: Appearing in
Contract forwarded to PD of Customs: San Francisco, June 27, 1997

(F) Company: Buffalo Color Corp.
Articles: Indigo nacco powder X-disp; indigo nacco 42% liquid
Merchandise: Indigo powder
Factory: Buffalo, NY
Proposal signed: April 14, 1997
Basis of claim: Used in
Contract forwarded to PD of Customs: New York, July 25, 1997

(G) Company: Colgate-Palmolive Co.
Articles: Powdered laundry detergent
Merchandise: Petrelab® 585 (P–585)
Factory: Jefferson, IN
Proposal signed: March 10, 1997
Basis of claim: Used in
Contract forwarded to PD of Customs: New York, June 4, 1997

(H) Company: The Dexter Corp.
Articles: Wet form non-woven fabric
Merchandise: Polyester film; polyvinyl alcohol fiber; rayon fiber; polyvinyl chloride (vinyon) fiber; polyolefin synthetic pulp
Factory: Windsor Locks, CT
Proposal signed: February 7, 1997
Basis of claim: Appearing in
Contract forwarded to PD of Customs: Boston, July 21, 1997

(I) Company: Eastman Chemical Co. (successor to Eastman Kodak Co.'s T.D. 93–33–N under 19 U.S.C. 1313(s))
Articles: Polyester polymers pellets
Merchandise: Paraxylene; ethylene glycol
Factories: Kingsport, TN; Columbia, SC
Proposal signed: February 26, 1997
Basis of claim: Appearing in
Contract forwarded to PD of Customs: New York, June 2, 1997

(J) Company: Fina Oil & Chemical Co.
Articles: Polystyrene polymer
Merchandise: Styrene
Factory: Carville, LA
Proposal signed: April 22, 1997
Basis of claim: Used in
Contract forwarded to PD of Customs: Houston, June 26, 1997

(K) Company: General Electric Co., d/b/a GE Plastics
Articles: LEXAN® polycarbonate resins
Merchandise: Phenol
Factories: Burkville, AL; Ottawa, IL; Mount Vernon, IN; Selkirk, NY; Washington, WV
Proposal signed: March 28, 1997
Basis of claim: Appearing in
Contract forwarded to PD of Customs: Miami, May 28, 1997

(L) Company: Globe Metallurgical, Inc.
Articles: Magnesium ferrosilicon alloys
Merchandise: Calcium silicon alloy and rare earth metals a/k/a cerium lanthanide alloy
Factories: Beverly, OH; Niagara Falls, NY
Proposal signed: October 8, 1996
Basis of claim: Used in
Contract forwarded to PD of Customs: New York, June 18, 1997

(M) Company: Hercules Inc.
Articles: Synthetic staple fiber
Merchandise: Antioxidants IRGANOX 1010, CHIMASSORB 119 FL and CHIMASSORB 944 FD
Factory: Oxford, GA
Proposal signed: March 26, 1997
Basis of claim: Used, less valuable waste
Contract forwarded to PD of Customs: Boston, June 13, 1997

(N) Company: International Paper, Anitec Imaging Products Div.
Articles: Photographic film of various lengths and widths
Merchandise: Photographic film rolls
Factory: Binghamton, NY
Proposal signed: April 7, 1997
Basis of claim: Appearing in
Contract forwarded to PD of Customs: New York, June 26, 1997

(O) Company: Lamtec Corp.
Articles: Laminations of plastic films, aluminum foil, kraft papers and fabrics
Merchandise: Aluminum alloy foil
Factory: Flanders, NJ
Proposal signed: January 2, 1997
Basis of claim: Used in
Contract forwarded to PD of Customs: New York, June 27, 1997

(P) Company: LNP Engineering Plastics Inc.
Articles: Polyethersulfone compounds
Merchandise: Polyethersulfone Ultrason® E1010; Polyethersulfone ultrason® E2010 natural
Factories: Santa Ana, CA; Thorndale, PA
Proposal signed: February 26, 1997
Basis of claim: Used in
Contract forwarded to PD of Customs: New York, May 23, 1997

(Q) Company: Occidental Chemical Corp.
Articles: Dechlorane plus
Merchandise: 1,5-cyclooctadiene
Factory: Niagara Falls, NY
Proposal signed: November 8, 1996
Basis of claim: Used in
Contract forwarded to PD of Customs: Houston, June 12, 1997

(R) Company: Organic Pigments Corp.
Articles: Pigment dispersions
Merchandise: Pigment
Factory: Greensboro, NC
Proposal signed: March 12, 1997
Basis of claim: Used in
Contract forwarded to PDs of Customs: Miami and New York, June 13, 1997

(S) Company: Outokumpu American Brass, Inc.
Articles: Copper or copper alloy sheet, strip, roll, pipe, tube or rolled shapes and/or profiles
Merchandise: Copper, refined, unwrought (cathode, ingot, etc.)
Factory: Buffalo, NY
Proposal signed: March 20, 1997
Basis of claim: Appearing in
Contract forwarded to PDs of Customs: New York and Chicago, June 4, 1997
Revokes: T.D. 93–5–S

(T) Company: The Pfaltzgraff Co., t/a Syracuse China Corp.
Articles: Finished chinaware
Merchandise: Bisqueware
Factory: Syracuse, NY
Proposal signed: November 11, 1996
Basis of claim: Appearing in
Contract forwarded to PD of Customs: Boston, May 23, 1997

(U) Company: Philip Morris Inc.
Articles: Cigarettes
Merchandise: Cigarette filter rods
Factories: Louisville, KY (3); Concord, NC; Richmond and Chester, VA
Proposal signed: February 5, 1997
Basis of claim: Appearing in
Contract forwarded to PD of Customs: New York, June 23, 1997
Revokes: T.D. 95–70–T

(V) Company: Platte Chemical Co.
Articles: Agricultural seed treatments
Merchandise: Lindane technical
Factory: Fremont, NE
Proposal signed: November 19, 1996
Basis of claim: Appearing in
Contract forwarded to PD of Customs: Chicago, May 23, 1997

(W) Company: Rocky Mountain Colby Pipe Co.
Articles: ABS-DWV plastic pipe
Merchandise: Natural high impact ABS (Acrylonitrile Butadiene Styrene) resin
Factory: Pendleton, OR
Proposal signed: May 2, 1997
Basis of claim: Appearing in
Contract forwarded to PD of Customs: San Francisco, June 18, 1997

(X) Company: San Joaquin Valley Concentrates (a limited partnership)
Articles: Blended grape juice concentrates
Merchandise: Red and white grape juice concentrate
Factory: Fresno, CA
Proposal signed: April 12, 1997
Basis of claim: Appearing in
Contract forwarded to PD of Customs: San Francisco, June 27, 1997

(Y) Company: Syntex Chemicals, Inc.
Articles: Chlorohydrin (a/k/a (1S,2S)-(1-benzyl-3-chloro-2-hydroxy-propyl)-carbamic acid methyl ester)
Merchandise: Carbaester (a/k/a (S)-2-Methoxycarbamoyl-3-phenyl-propionic acid methyl ester)
Factory: Boulder, CO
Proposal signed: April 14, 1997
Basis of claim: Used in
Contract forwarded to PD of Customs: San Francisco, July 15, 1997

(Z) Company: Wyman-Gordon Forgings, Inc.
Articles: Finished bomb casings
Merchandise: Rough bomb casing forgings
Factory: Houston, TX
Proposal signed: February 24, 1997
Basis of claim: Used, less valuable waste
Contract forwarded to PD of Customs: New York, May 29, 1997

APPROVALS UNDER T.D. 84–49

(1) Company: Shell Anacortes Refining Co. (successor to Shell Oil Co.'s T.D. 66–136–1 under 19 U.S.C. 1313(s))
Articles: Petroleum products and petrochemical products
Merchandise: Crude petroleum and petroleum derivatives
Factory: Anacortes, WA
Proposal signed: February 4, 1997
Basis of claim: As provided in T.D. 84–49
Contract forwarded to PD of Customs: Houston, June 26, 1997

(2) Company: Shell Martinez Refining Co. (successor to Shell Oil Co.'s T.D. 66–136–1 under 19 U.S.C. 1313(s))
Articles: Petroleum and petrochemicals products
Merchandise: Crude petroleum and petroleum derivatives
Factory: Martinez, CA
Proposal signed: February 4, 1997
Basis of claim: As provided in T.D. 84–49
Contract forwarded to PD of Customs: Houston, May 30, 1997

(3) Company: Shell Norco Refining Co. (successor to Shell Oil Co.'s T.D. 66–136–1 under 19 U.S.C. 1313(s))
Articles: Petroleum products and petrochemicals
Merchandise: Crude petroleum and petroleum derivatives
Factory: Norco, LA
Proposal signed: February 4, 1997
Basis of claim: As provided in T.D. 84–49
Contract forwarded to PD of Customs: Houston, June 13, 1997

(4) Company: Shell Odessa Refining Co. (successor to Shell Oil Co.'s T.D. 66–136–1 under 19 U.S.C. 1313(s))
Articles: Petroleum and petrochemical products
Merchandise: Crude petroleum and petroleum derivatives
Factory: Odessa, TX
Proposal signed: February 4, 1997
Basis of claim: As provided in T.D. 84–49
Contract forwarded to PD of Customs: Houston, May 30, 1997

(5) Company: Tosco Corp.
Articles: Petroleum products and petrochemicals
Merchandise: Crude petroleum and petroleum derivatives
Factories: Martinez, CA; Ferndale, WA
Proposal signed: December 19, 1996
Basis of claim: As provided in T.D. 84–49
Contract forwarded to PD of Customs: Houston & San Francisco, June 2, 1997
Revokes: T.D. 83–15–3

U.S. Customs Service

General Notices

PUBLIC MEETING ON RECONCILIATION

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of meeting.

SUMMARY: This notice announces that a public meeting regarding reconciliation will be held in Hearing Room A of the Interstate Commerce Commission Building in Washington, D.C., commencing at 9:30 a.m. on Wednesday, November 12, 1997. The purpose of this meeting is to (1) discuss transfer pricing issues and (2) analyze a proposal for a menu-approach to reconciliation. Customs has received various comments from members of the importing community that a flexible approach should be developed for reconciliation, under which companies can choose an option which will best suit their business needs.

DATE: The meeting will be held November 12, 1997, from 9:30 a.m. to 4:00 p.m.

ADDRESS: The meeting will be held at the Interstate Commerce Commission Building, Hearing Room A, 12th Street & Constitution Avenue, N.W., Washington, D.C.

FOR FURTHER INFORMATION CONTACT:

To attend the meeting, please contact the Office of Regulations and Rulings at (202) 927–0760.

For additional information on the meeting, please contact either John Durant, Office of Regulations and Rulings, at (202) 927–1964 or Shari McCann, Office of Field Operations at (202) 927–1106.

SUPPLEMENTARY INFORMATION:

On December 8, 1993, the President signed the North American Free Trade Agreement Implementation Act (Pub. L. 103–182). Title VI of the Act contained provisions relating to Customs modernization and is popularly known as the Customs Modernization Act or Mod Act. In Title VI, section 637 amends section 484 of the Tariff Act of 1930 (19 U.S.C. 1484) to create a new subsection (b) entitled "Reconciliation."

Reconciliation allows a party to provide information, other than admissibility information, which is undeterminable at time of entry sum-

mary, to Customs at a later date. A reconciliation is treated as an entry for purposes of liquidation, reliquidation and protest.

Customs has published several notices in the Federal Register regarding prototype tests of reconciliation. On May 10, 1996, Customs published a notice in the Federal Register (61 FR 21534) regarding a reconciliation test covering entries to which antidumping and countervailing duties applied. This test has been completed.

Customs also published two notices regarding plans to test reconciliation for related party importers who had reason to believe upward adjustments may have been made to the price of imported merchandise for tax purposes pursuant to 26 U.S.C. 482 (60 FR 64470 and 60 FR 46141).

The Account-based Declaration Prototype (62 FR 14731, published 3/27/97), which includes a reconciliation component, is currently being designed under the Automated Commercial Environment.

Customs is also currently designing the ACS Reconciliation Prototype and published a notice in the Federal Register (62 FR 51181) on September 30, 1997, announcing plans to conduct a test of this prototype. The testing period of this prototype is scheduled to be implemented in October, 1998.

The importing community has raised concerns to Customs that reconciliation, as is currently envisioned, is overly burdensome in the data required. Customs and the trade are working together in an attempt to provide a series of options for reconciliation, which will provide the controls and information needed by the government and a practical mechanism which accommodates various business situations.

This document announces that a public meeting will be held to discuss issues related to the development of reconciliaton by Customs. At this meeting, Customs and the trade participants will address reconciliation under the current legal structure, and analyze a menu-approach to reconciliation. The goal will be to secure a definition of the various business problems for which reconciliation does not fit, analyze a series of options under which to design reconciliation, and finalize a joint Customs/Industry proposal. Customs will discuss with the trade participants whether any statutory, regulatory or policy changes are required before reconciliation can be best implemented.

The meeting will be held in Hearing Room A of the Interstate Commerce Commission Building in Washington, D.C., commencing at 9:30 a.m. on Wednesday, November 12, 1997. Because seating is limited, reservations are required.

The morning session of this meeting will be devoted to a discussion of transfer pricing, including the issues companies face in working under both the Customs and IRS statutes and transfer pricing situations in need of a reconciliation reporting mechanism. The afternoon session will be devoted to government/industry analysis of a menu-approach to reconciliation. The menu-approach is intended to provide a series of op-

tions which address various business needs, including the entire range of value issues (e.g., assists, indirect payments, transfer pricing, etc.)

Dated: October 27, 1997.

JOHN DURANT
Director,
Mod Act Task Force.

[Published in the Federal Register, October 30, 1997 (62 FR 58769)]

FEE FOR CUSTOMS SERVICES AT USER FEE AIRPORTS

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: General notice.

SUMMARY: This document advises the public of an increase in the fee charged for Customs services that are made available at user fee airports pursuant to 19 U.S.C. 58b. The fee reflects the annual cost of providing one Customs inspector at a user fee airport on a full-time basis. The increase in the annual fee is necessary to cover all costs currently incurred by Customs in providing inspectional services at user fee airports, as mandated by the statute.

EFFECTIVE DATE: The new fee is effective October 1, 1997, and will be reflected in quarterly user fee airport billings issued on or after that date.

FOR FURTHER INFORMATION CONTACT: Gerald Ross, Office of Finance (202–927–0123).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Section 236 of the Trade and Tariff Act of 1984 (Public Law 98–573, 98 Stat. 2992), as amended (codified at 19 U.S.C. 58b), authorizes the Secretary of the Treasury to make Customs services available and charge a fee for the use of such services at certain specified airports and at any other airport, seaport, or other facility designated by the Secretary pursuant to criteria set forth in the statute. The statute further provides that the fee charged thereunder shall be in an amount equal to the expenses incurred by the Secretary in providing the Customs services at the airport, seaport, or other facility, including the salary and expenses of individuals employed by the Secretary to provide the Customs services.

The Commissioner of Customs has designated a number of airports within the United States as "user fee airports" pursuant to the author-

ity set forth in 19 U.S.C. 58b which has been delegated by the Secretary of the Treasury to the Commissioner. Section 122.15 of the Customs Regulations (19 CFR 122.15) concerns user fee airports and includes a list of designated user fee airports. Although there are no other provisions within the Customs Regulations that deal specifically with user fee airports, each Memorandum of Agreement between the concerned airport authority and Customs, under which each user fee airport is established, sets forth the responsibilities of both Customs and the airport which include an agreement by airport to pay a flat annual fee (established at $74,905 for Fiscal Year 1997 which ended on September 30, 1997) to cover the salary and benefits costs of one full-time inspector, plus any related costs for travel, transportation, per diem and cost-of-living allowances, and an agreement by Customs to provide 8 hours of service per day, Monday through Friday, for a total of 40 hours. Each Memorandum of Agreement further provides for an increase in the annual fee as may be necessary to reflect any increase in the costs to Customs for providing the services, as required by the statute.

ADJUSTMENT OF ANNUAL USER FEE AIRPORT FEE

Based on a review of the annual fee charged in Fiscal Year 1997 with reference to the actual salaries and expenses for Customs personnel assigned to user fee airports as of April 30, 1997, Customs has determined that the annual fee should be increased to $78,500 in order to reflect the true costs to Customs in providing Customs services at user fee airports. The new annual fee is effective October 1, 1997, and will be reflected in quarterly user fee airport billings issued on or after that date.

Dated: October 22, 1997.

VINCETTE L. GOERL,
Assistant Commissioner,
Office of Finance.

[Published in the Federal Register, October 28, 1997 (62 FR 55846)]

LIVE ENTRY REQUIREMENT FOR NON-AUTOMATED ENTRY; COMMENT REQUEST

AGENCY: U.S. Customs, Department of the Treasury.

ACTION: Notice of meeting and request for comment.

SUMMARY: In its efforts to redesign the trade compliance process, Customs would like to develop a more efficient way to process non-automated entry and entry summary documents. This notice announces that a public meeting will be in Hearing Room B of the Interstate Commerce Commission Building in Washington, D.C., commencing at 9:30 a.m. on Friday, November 14, 1997. The purpose of this meeting is to (1) discuss a possible change in regulations to require all non-automated entry documents to be filed as entry/entry summaries before the release of merchandise; (2) discuss differing public interpretations of this issue and (3) explore options for clarifying the differing interpretations. Due to limitations on available seating, those planning to attend are requested to notify Customs in advance. Written comments will also be accepted at the hearing and by mail.

DATES: Meeting will take place on November 14, 1997, from 9:30 a.m. to 11:30 p.m. Written comments should be received on or before November 30, 1997, to be assured of consideration in the development of any proposed amendment to the current regulations.

ADDRESSES: Meeting will be held in Hearing Room B of the Interstate Commerce Commission Building at 12th Street and Constitution Avenue, NW, Washington, D.C. Written comments regarding this notice should be addressed to Ms. Brenda Brockman, U.S. Customs Service, Room B–102, 1301 Constitution Avenue, Washington, DC 20229.

FOR FURTHER INFORMATION CONTACT:

To attend the hearing, please notify Ms. Tonda Moton at (202) 927–1676.

For operational or policy issues: Ms. Kathryn Dapkins at (202) 927–0333.

For regulatory issues: Ms. Gina Grier at (202) 927–2397.

SUPPLEMENTARY INFORMATION:

In accordance with the Customs Modernization provisions (the Mod Act) of the North American Free Trade Agreement Implementation Act, which gives Customs the flexibility to tailor its commercial operations to meet its needs and capabilities, Customs has undertaken an effort to redesign the entry process. While the majority of all entry summaries are sent to Customs electronically via the Automated Broker Interface (ABI), the remaining summaries are still submitted as non-automated documents. Customs is currently reconsidering the processing of non-ABI, fully paper entry documents.

Importers currently have the option of filing formal, non-ABI entries by one of the following two methods: 1) the entry (CF 3461) is submitted

to Customs to obtain release of the merchandise, and the entry summary (CF 7501) along with payment of duties, fees, and taxes, is submitted within ten business days of the date of the entry (date of release of the merchandise); or 2) the entry/entry summary (generally referred to as a "live" entry), along with payment of duties, fees, and taxes, is submitted to Customs to obtain the combined effect of processing the documents and paying the duties and then obtaining release of the merchandise.

When a non-ABI entry is filed, Customs manually enters data from the entry documents into its automated system. When the entry summary is submitted, Customs again enters data manually, this time from the summary, into its automated system. This process of handling the entry documents twice is inefficient and burdensome. It also hinders Customs ability to perform the enforcement activities which are a part of its mission.

Customs would like to streamline this process by requiring importers who file non-automated entry documents to file them as entry/entry summaries, along with all documentation and estimated duties, fees, and taxes, prior to the release of the merchandise. This type of "live entry" would require only one-time processing by Customs, thereby decreasing the amount of time spent on these non-automated documents and freeing up resources for other work. This one-time processing would allow Customs to more efficiently handle the increase in importations within current resource levels. For importers who file non-automated entry documents, the two-step process of submitting the CF 3461 to obtain release of goods, and then, within ten business days, submitting the CF 7501 entry summary with payment of duties, fees, and taxes, would be eliminated.

Customs ability to enforce trade laws would also be enhanced if the entry/entry summary were submitted prior to the release of the merchandise. The information on entry summaries tends to be more complete and accurate than that on entries. Having better data up front would make it easier for Customs to pinpoint compliance problems, ensure admissibility, and verify bond sufficiency, as these types of checks are performed manually with non-automated entries.

Customs will hold a public meeting to discuss a possible change in regulations to require all non-automated entry documents to be filed as entry/entry summaries before the release of merchandise. This meeting will begin with a brief description of possible proposals, followed by time for the trade community to ask questions and provide comments. Those wishing to provide verbal comments should so indicate when making seating reservations, and should also submit their comments in writing. Because seating is limited, reservations will be required. Individuals planning to attend are requested to notify Ms. Tonda Moton by fax at (202) 927–1363 or by phone at (202) 927–1676. Written comments will be considered in the development of any proposed amend-

ment to the current regulations, but will not be responded to individually.

Dated: October 21, 1997.

CHARLES W. WINWOOD,
Assistant Commissioner,
Office of Strategic Trade.

[Published in the Federal Register, October 28, 1997 (62 FR 55847)]

COPYRIGHT, TRADEMARK, AND TRADE NAME RECORDATIONS

(No. 8–1997)

AGENCY: U.S. Customs Service, Department of the Treasury.

SUMMARY: The copyrights, trademarks, and trade names recorded with the U.S. Customs Service during the month of August 1997 follow. The last notice was published in the CUSTOMS BULLETIN on September 3, 1997.

Correction or information to update files may be sent to U.S. Customs Service, IPR Branch, 1301 Constitution Avenue, N.W., (Franklin Court), Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: John F. Atwood, Chief, Intellectual Property Rights Branch, (202) 927–2330.

Dated: October 23, 1997.

JOHN F. ATWOOD,
Chief,
Intellectual Property Rights Branch.

The lists of recordations follow:

DEPARTMENT OF THE TREASURY,
OFFICE OF THE COMMISSIONER OF CUSTOMS,
Washington, DC, October 28, 1997.

The following documents of the United States Customs Service, Office of Regulations and Rulings, have been determined to be of sufficient interest to the public and U.S. Customs Service field offices to merit publication in the CUSTOMS BULLETIN.

STUART P. SEIDEL,
Assistant Commissioner,
Office of Regulations and Rulings.

REVOCATION OF RULING LETTER RELATING TO THE TARIFF CLASSIFICATION OF A WOMEN'S KNIT SWEATER

AGENCY: U.S. Customs Service, Department of Treasury.

ACTION: Notice of revocation of tariff classification ruling letter.

SUMMARY: Pursuant to section 625(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs is revoking a ruling pertaining to the tariff classification of a women's knit sweater.

DATE: Merchandise entered or withdrawn from warehouse for consumption on or after January 12, 1998.

FOR FURTHER INFORMATION CONTACT: Rebecca A. Hollaway, Commercial Rulings Division, (202) 927–2379.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On September 17, 1997, Customs published in the CUSTOMS BULLETIN, Volume 31, Number 37/38, a notice of a proposal to revoke DD 811349, dated July 3, 1995, concerning the classification of a women's knit sweater.

No comments were received in response to our notice of intent to revoke DD 811349.

Pursuant to section 625(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested par-

ties that Customs is revoking DD 811349 which incorrectly classified the garment as a sweater of other textile materials under subheading 6110.90.9042 of the Harmonized Tariff Schedule of the United States Annotated (HTSUSA). The garment is correctly classified as a sweater of man-made fibers under subheading 6110.30.3020, HTSUSA.

Dated: October 23, 1997.

JOHN ELKINS,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachment]

[ATTACHMENT]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, October 23, 1997.

CLA–2RR:TC:TE 959828 RH
Category: Classification
Tariff No. 6110.30.3020

MR. SUBHASH BHATIA
CALIFORNIA FASHION INDUSTRIES, INC.
102 East King Boulevard
Los Angeles, CA 90011–2699

Re: Revocation of DD 811349; tariff classification of a women's knit sweater; Note 2, Section XI; Subheading Note 2(A), Section XI.

DEAR MR. BHATIA:

On July 3, 1995, Customs issued District Decision (DD) 811349 to your company regarding the tariff classification of a women's knit sweater from Hong Kong. Customs classified the sweater under subheading 6110.90.9042 of the Harmonized Tariff Schedule of the United States Annotated (HTSUSA).

We have reviewed that decision and found that the sweater was not properly classified. This ruling, therefore, revokes DD 811349 and sets forth the proper classification of the sweater.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, 107 Stat. 2057, 2186 (1993), notice of the proposed revocation of DD 811349 was published on September 17, 1997, in the CUSTOMS BULLETIN, Volume 31, Number 37/38.

Facts:

A description of the sweater in DD 811349 is as follows:

> The submitted sample, style number H–112, is a women's sweater made of 38 percent silk, 26 percent rayon, 22 percent ramie, 13 percent acrylic and 1 percent cotton knit fabric. The fabric contains 9 or fewer stitches per 2 centimeters when measured in the direction the stitches were formed.
>
> The garment features a full front opening with three button closures and a drawstring, a shawl style collar, long sleeves and beading * * *.

Issue:

What is the correct tariff classification of the subject sweater constructed of five different textile materials (silk, rayon, ramie, acrylic and cotton)?

Law and Analysis:

Classification of goods under the HTSUSA is governed by the General Rules of Interpretation (GRIs). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes. Heading 6110 encompasses knitted or crocheted sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles.

Classification of a sweater according to its fabric occurs at the subheading or six-digit level. As the sweater in question contains five textile materials, we must determine which one confers classification. Subheading Note 2 to Section XI, HTSUSA, provides in pertinent part:

> (A) Products of chapters 56 to 63 containing two or more textile materials are to be regarded as consisting wholly of that textile material which would be selected under note 2 to this section for the classification of a product of chapters 50 to 55 consisting of the same textile materials.

Legal Note 2(A) and 2(B)(b) and (c), to Section XI, HTSUSA, state, in pertinent part:

> (A) Goods classifiable in chapters 50 to 55 or in heading 5809 or 5902 and of a mixture of two or more textile materials are to be classified as if consisting wholly of that one textile material which predominates by weight over each other single textile material. When no one textile material predominates by weight, the goods are to be classified as if consisting wholly of that one textile material which is covered by the heading which occurs last in numerical order among those which equally merit consideration.
>
> (B) For the purposes of the above rule:
>
> * * * * * * *
>
> (b) The choice of appropriate heading shall be effected by determining first the chapter and then the applicable heading within that chapter, disregarding any materials not classified in that chapter;
>
> (c) When both chapters 54 and 55 are involved with any other chapter, chapters 54 and 55 are to be treated as a single chapter.

In the submitted sample the sweater is composed of 38 percent silk, 26 percent rayon, 22 percent ramie, 13 percent acrylic and 1 percent cotton. Acrylic and rayon fibers and yarns are classifiable in chapters 54 and 55. The cotton, silk and ramie fibers and yarns are classifiable in chapters 52, 50 and 53, respectively. In this instance, therefore, only the rayon and acrylic materials are treated as a single textile material in accordance with Legal Note 2(B)(c) to Section XI. The combination of those two man-made textile materials equals 39 percent of the total weight of the sweater and predominates by weight over the silk, ramie and cotton materials.

Holding:

The sweater is classifiable under subheading 6110.30.3020, HTSUSA, which provides for "Sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted: Of man-made fibers: Other: Other: Other: Other: Women's." It is dutiable at the general column rate of 33.5 percent *ad valorem* and the textile category number is 646.

DD 811349, dated July 3, 1995, is hereby revoked. In accordance with 19 U.S.C. 1625(c)(1), this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN. Publication of rulings or decisions pursuant to 19 U.S.C. 1625(c)(1) does not constitute a change of practice or position in accordance with section 177.10(c)(1), Customs Regulations (19 CFR 177.10(c)(1)).

JOHN ELKINS,
(for John Durant, Director,
Commercial Rulings Division.)

MODIFICATION OF CUSTOMS RULING LETTER RELATING TO OPERATIONS INCIDENTAL TO THE ASSEMBLY PROCESS AND TO CUSTOMS RULING LETTERS RELATING TO THE DEFINITION OF "TEXTILE OR APPAREL GOODS" FOR DETERMINING ELIGIBILITY FOR DUTY-FREE ENTRY PURSUANT TO SUBHEADING 9802.00.90, HARMONIZED TARIFF SCHEDULE OF THE UNITED STATES

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of modification of tariff classification ruling letters.

SUMMARY: Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement (NAFTA) Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs is modifying a ruling pertaining to whether certain operations are considered incidental to the assembly process for purposes of subheadings 9802.00.80 and 9802.00.90, Harmonized Tariff Schedule of the United States (HTSUS), and two ruling letters with respect to the applicable definition of a "textile or apparel good" to determine eligibility for duty-free entry pursuant to subheading 9802.00.90, HTSUS. Notice of the proposed modification was published on September 17, 1997, in the CUSTOMS BULLETIN, Volume 31, Number 37/38.

EFFECTIVE DATE: Merchandise entered or withdrawn from warehouse for consumption on or after January 12, 1998.

FOR FURTHER INFORMATION CONTACT: David Cohen, Special Classification and Marking Branch, (202) 927–2310.

SUPPLEMENTARY INFORMATION:

BACKGROUND

On September 17, 1997, Customs published a notice in the CUSTOMS BULLETIN, Volume 31, Number 37/38, proposing to modify Headquarters Ruling Letter (HRL) 732257, dated May 16, 1990. In the same published notice, Customs also proposed to modify HRL 559961, dated March 3, 1997, and HRL 559363, dated February 13, 1997. No comments were received in response to the notice.

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs is modifying HRL 732257, dated May 16, 1990, to reflect the position that the slitting and sewing operation of the pantyhose tubes is an operation incidental to the assembly process. In addition, this notice advises interested parties that Customs is modifying HRL 559961, dated March 3, 1997, and HRL 559363, dated Febru-

ary 13, 1997, to reflect the correct definition of a "textile or apparel good" for purposes of determining eligibility pursuant to subheading 9802.00.90, HTSUS. Headquarters Ruling Letter (HRL) 559856, modifying HRL 732257, HRL 559961, and HRL 559363 is set forth in the Attachment to this document.

Publication of rulings or decisions pursuant to 19 U.S.C. 1625 does not constitute a change of practice or position in accordance with section 177.10(c)(1), Customs Regulations (19 CFR 177.10(c)(1)).

Dated: October 23, 1997.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachment]

[ATTACHMENT]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC, October 23, 1997.

CLA–2 RR:TC:SM 559856 DEC
Category: Classification
Tariff No. 9802.00.90

MR. RON GERDES
SANDIER, TRAVIS & ROSENBERG
1341 G Street, N.W.
Washington, DC 20005–3105

Re: Eligibility of pantyhose for duty-free treatment under subheading 9802.00.90; Textile or apparel good; Modification of HRL 559961 and HRL 559363; HRL 558708; HRL 557875; HRL 553105; *L'Eggs Products, Inc. v. United States,* 13 CIT 40, 704 F.Supp. 1127 (CIT 1989); subheading 9802.00.80, HTSUS; HRL 040242; HRL 041987; HRL 555446; Modification of HRL 732257; 19 CFR 1016(b)(6); 19 CFR 10.16(c)(4); 19 CFR 10.14.

DEAR MR. GERDES:

This is in response to a request for a binding ruling dated April 17, 1996, on behalf of Sara Lee Hosiery, Incorporated (SLH), concerning the eligibility of pantyhose subjected to processing in Mexico for duty-free treatment under subheading 9802.00.90, Harmonized Tariff Schedule of the United States (HTSUS). In addition, you supplemented your original ruling request with additional submissions dated September 23, 1996, and January 7, 1997, which provided supplementary information Customs requested as a result of our November 7, 1996, meeting at our office at which you and SLH representatives were present. A sample of the pantyhose, their component parts, and two videotapes describing the processing were submitted for our examination.

Pursuant to section 625, Tariff Act of 1930 (19 U.S.C. 1625), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act, Pub. L. 103–182, 107 Stat. 2057, 2186 (1993) (hereinafter section 625), notice of the proposed modification of Headquarters Ruling Letter (HRL) 559961, HRL 559363, and HRL 732257 was published September 17, 1997, in the CUSTOMS BULLETIN, Volume 31, Number 37/38.

Facts:

You state that SLH exports the following U.S.-origin components to Mexico: knitted tubes with a finished knitted waistband at one end and an open toe at the other (the tubes

are made of knitted man-made fiber yarns (spandex, nylon, polypropylene)), garment labels, gusset material on rolls, and sewing yarn. The sewing operation in Mexico is performed using a linked pair of automatic sewing machines. The machine operator begins the process by loading two tubes onto the automatic arms of the Gusset Line Closer portion of the machine. The machine will slit the tubes lengthwise from the top to the crotch area and then separate them in preparation for gusset insertion. The gusset material is a small amount of cloth material that is inserted into the pantyhose for improved fit and reinforcement. The gusset material is on a roll and the machine will cut it to length at an angle. A separator spreads the gusset material open while a set of clamps holds the two slit tubes together. The gusset material is then inserted between the two tubes and after the air is blown under the gusset material, the machine will sew one side of the gusset to one tube. Another sewing unit sews the tubes together at the slit, sews the second side of the gusset to the second tube, and sews a label approximately two inches from the end seam.

The sewn pantyhose will be transferred to a tube closing machine known as a Toe Closer machine. This machine will turn the pantyhose in-side out by means of a vacuum device, and then will position the tubes so that the machine may sew the open ends of the tubes closed. The pair of pantyhose is then deposited into a hosiery bag. Following inspection for sewing and knitting defects, the finished pantyhose are packed for bulk shipment to the U.S. You state that the entire assembly process takes approximately 90 seconds to complete.

Issue:

Are the imported pantyhose described above eligible for duty-free treatment under subheading 9802.00.90, HTSUS, after being subjected to the processing described above?

Law and Analysis:

One of the special provisions contained in Annex 300–B of the North American Free Trade Agreement (NAFTA) is Appendix 2.4, which provides for the elimination of customs duties on textile and apparel goods that are assembled in Mexico from fabrics wholly formed and cut in the U.S. To implement this provision, a new tariff item was created in subheading 9802.00.90, HTSUS.

Subheading 9802.00.90, HTSUS, provides as follows:

> Textile and apparel goods, assembled in Mexico in which all fabric components were wholly formed and cut in the United States, provided that such fabric components, in whole or in part (a) were exported in condition ready for assembly without further fabrication, (b) have not lost their physical identity in such articles by change in form, shape or otherwise, and (c) have not been advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process; provided that goods classifiable in chapters 61, 62 or 63 may have been subject to bleaching, garment dyeing, stone-washing, acid-washing or permapressing after assembly as provided for herein.

"Textile and Apparel Good" under Subheading 9802.00.90, HTSUS:

The initial question we must address is whether the pantyhose material knitted of man-made fiber yarns including spandex, nylon and polypropylene is considered a "textile and apparel good" under subheading 9802.00.90, HTSUS. Previous rulings on the issue of whether an article is a "textile and apparel good" for purposes of subheading 9802.00.90, HTSUS, have applied differing standards. HRL 559961, dated March 3, 1997, and HRL 559363, dated February 13, 1997, which addressed eligibility for certain articles for duty-free treatment under 9802.00.90, HTSUS, referenced section 102.21(b)(5), Customs Regulations (19 CFR 102.21(b)(5)) as the operative definition of a "textile and apparel good" for purposes of eligibility under subheading 9802.00.90, HTSUS. For purposes of implementing subheading 9802.00.90, HTSUS, however, Customs should have properly deferred to the terms provided for in the NAFTA. See HRL 558798, dated June 14, 1995, and HRL 557875, dated May 4, 1995.

Specifically, "textile and apparel goods" eligible for duty-free treatment under subheading 9802.00.90, HTSUS, are listed in Appendix 1.1 of Annex 300–B of the NAFTA. Chapter 61 of Appendix 1.1 includes various types of pantyhose the exact classification of which varies based on synthetic fiber yarn content. The subject pantyhose will qualify as a "textile and apparel good" since it is classified under heading 6115, HTSUS, and, therefore, eligible for duty-free treatment under subheading 9802.00.90, HTSUS. Customs hereby modifies HRL 559961 and HRL 559363 to incorporate the NAFTA definition of "textile and apparel goods" for purposes of subheading 9802.00.90, HTSUS, eligibility.

Acceptability of the Slitting and Sewing Operation under Subheadings 9802.00.80 and 9802.00.90, HTSUS:

Customs has examined the slitting and sewing operation of pantyhose in various ruling letters some of which were issued to companies that have been acquired by SLH. For instance, Customs issued HRL 553105, dated December 31, 1984, to counsel on behalf of L'Eggs Products, Incorporated. SLH is an operating division of the Sara Lee Corporation which was formerly known as Consolidated Foods Corporation. On December 26, 1981, L'Eggs Products, Incorporated, was merged into Consolidated Foods Corporation and has since been a part of SLH.

In HRL 553105, Customs ruled that no duty allowance should be granted for the pantyhose tubes which were both slit and sewn together simultaneously. This position was challenged in the Court of International Trade, and the court, agreeing with the plaintiff, granted the duty allowance for U.S. articles assembled abroad. *L'Eggs Products, Inc. v. United States,* 13 CIT 40, 704 F. Supp. 1127 (CIT 1989).

In *L'Eggs, supra,* U.S.-origin components of pantyhose which consisted of two tubes, sewing yarn or thread, the gusset, and the garment labels were exported to be assembled. Customs had allowed the cost of all of the components except the tubes to be deducted from the appraised value pursuant to item 807.00, Tariff Schedules of the United States (TSUS) (now subheading 9802.00.80, HTSUS). A review of the court documents in the *L'Eggs* case reveals that the processing of the nylon tubes abroad included the use of an "overedge" sewing machine which slit both tubes and sewed them together. *See* Attachment to *Defendant's Memorandum in Opposition to Plaintiff's Motion for Summary Judgment and in Support of Defendant's Cross-Motion for Summary Judgment* which describes the step-by-step processes performed on the exported components. Thus, the court was cognizant of the cutting and slitting operations performed on the pantyhose components. In finding for the plaintiff, the court concluded that the nylon tubes were fully fabricated components exported in condition ready for assembly, and the slitting and sewing operation was not cited as a further fabrication operation which would render the tubes ineligible for partial duty relief.

Prior to the *L'Eggs* decision, Customs issued HRL 040242, dated June 25, 1975, to counsel for Hanes Corporation which also is now owned by SLH. In HRL 040242, Customs determined that pantyhose tubes that were simultaneously slit through the U-shaped crotch area and seamed with overedge stitching was more than a mere trimming of a finished component. In addition, the closing of the open toe ends of the tubes which involved the sewing of one part of the pantyhose tube onto itself was determined not to be an assembly since it was not the fitting together of two or more components. Subsequently, Customs issued HRL 041987, dated September 19, 1975, which was issued to the same counsel on behalf of the Hanes Corporation. In this ruling, however, the Hanes Corporation proposed to perform the slitting operation at issue in HRL 040242 in the U.S. prior to the exportation of the tubes. Customs reversed its position in HRL 040242 and determined that the toe-closing operation did not preclude the partial duty allowance afforded U.S. articles that are sent abroad for assembly.

Subsequently, in HRL 555446, dated November 6, 1989, Customs issued another ruling on the eligibility of pantyhose for the partial duty exemption under subheading 9802.00.80, HTSUS. In HRL 555446, the toe ends of two tubes were sewn closed, the top portions of the tubes were slit lengthwise from the waistband to the crotch area, the tubes were then sewn together where the slit occurred, except where the crotch patch was inserted, and the crotch patch was then to be sewn into the crotch area, forming the completed article. Citing *L'Eggs* and *United States v. Oxford Industries, Inc.*[1], Customs determined that the tube closing operation constituted an assembly operation, and that the lengthwise slitting operation was a minor operation and was deemed to constitute an incidental operation. In addition, examination of the samples submitted in that case showed that the knitted tube and crotch patch components did not lose their physical identity in the assembly operation, and that they were not otherwise advanced in value or improved in condition except by assembly or operations incidental thereto.

In HRL 732257, dated May 16, 1990, Customs revisited the eligibility of pantyhose under subheading 9802.00.80, HTSUS. In HRL 732257, the manufacturing process consisted of

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[1] In *United States v. Oxford Industries, Inc.*, 517 FSupp. 694, 1 CIT 230 (1981), *aff'd*, 69 CCA 55, 668 F.2d 507 (1981), the court held that the slitting of fabric constituted an incidental operation where a buttonholing operation was performed by a machine which slit and stitched the cloth to form the button-hole in one continuous operation.

knitting "tubes" of lycra and/or nylon in the U.S. and a separate patch for the crotch area. These separate pieces were then shipped to Mexico where the tubes were cut from the top opening to the crotch area, the separate pieces were sewn together and, in most cases, the assembled pantyhose were dyed. Thereafter, the assembled pantyhose were folded around a piece of cardboard, placed in a cellophane bag and shipped back to the U.S. Customs held that the components failed to meet the requirements of clause (a) of the tariff provision because they were not exported in a condition ready for assembly without further fabrication. Cutting the pantyhose tube was not deemed to be an acceptable assembly operation or operation incidental to assembly, but was determined to be a further fabrication of the pantyhose. The cutting operation was deemed not simply cutting a component to length, but was similar to cutting fabric for a specific pattern in order to sew the newly cut components together. *See* 19 CFR 10.16(c)(2). Furthermore, the dyeing operation disqualified the pantyhose from subheading 9802.00.80, HTSUS, treatment pursuant to 19 CFR 10.16(c)(4), which states that chemical treatment of components or assembled articles, such as dyeing, to impart new characteristics is not a proper operation incidental to the assembly process. Therefore, the pantyhose did not qualify for the duty exemption available under subheading 9802.00.80, HTSUS.

In our opinion, the *L'Eggs* (1989) decision which was issued 14 years after HRL 040242 has effectively revoked the position articulated in HRL 040242 which stated, in part, that the simultaneous slitting and sewing operation precluded the eligibility of the pantyhose tubes from the partial duty allowance. HRL 732257 which was issued in 1990 is inconsistent with the Court of International Trade's decision in *L'Eggs* and HRL 555446. HRL 732257 is hereby modified to reflect the position which implicitly flows from *L'Eggs* that the slitting and sewing of pantyhose tubes alone is not a further fabrication rendering the pantyhose tubes ineligible for partial duty relief pursuant to subheading 9802.00.80, HTSUS. We note that the result in HRL 732257 does not change because the assembled pantyhose were also dyed. Customs determined that the dyeing is not a proper operation incidental to the assembly process pursuant to 19 CFR 10.16(c)(4). Therefore, the pantyhose in HRL 732257 were properly precluded from the duty allowance available under subheading 9802.00.80, HTSUS.

Turning to the issue of eligibility of the pantyhose tubes under subheading 9802.00.90, HTSUS, we are mindful of the fact that because subheading 9802.00.90, HTSUS, was intended as a successor provision to subheading 9802.00.80, HTSUS, with respect to certain textile and apparel goods assembled in Mexico, the regulations under subheading 9802.00.80, HTSUS, may be instructive in determining whether a good is eligible for the beneficial duty treatment accorded by subheading 9802.00.90, HTSUS. As distinguished from subheading 9802.00.80, HTSUS, however, it is noted that the new statute requires that all fabric components be formed and cut in the U.S., and that only such components, in whole or in part, must satisfy the three conditions set forth in (a)–(c) of the statute. HRL 558708, dated June 14, 1995.

Accordingly, it is our position that consistent with *L'Eggs* and HRL 555446, the slitting and sewing operations do not constitute a further fabrication of the nylon tubes. Rather, this operation is an operation incidental to the assembly of the pantyhose. *See* 19 CFR 10.14(a). Operations incidental to the assembly process are not considered further fabrication operations, as they are of a minor nature and cannot always be provided for in advance of the assembly operations, although they may precede, accompany or follow the actual assembly operation. 19 CFR 10.16(a).

Acceptability of the Cutting of the Gusset Material under Subheadings 9802.00.80 and 9802.00.90, HTSUS:

The next issue in this case is whether the cutting of the gusset material in Mexico at an angle so that the cut size conforms to the requirements of the pantyhose design precludes the eligibility of the pantyhose for subheading 9802.00.90, HTSUS, treatment on the ground of being "not incidental to the assembly process." Based on our review of the history of subheading 9802.00.90, HTSUS, and the stated objective that subheading 9802.00.90, HTSUS, was intended as a successor provision to subheading 9802.00.80, HTSUS, it is our position that 19 CFR 10.16 is instructive with regard to the types of operations that Customs will find to be incidental to the assembly. Section 10.16 states, in pertinent part, that:

> (b) Operations incidental to the assembly process. Operations incidental to the assembly process whether performed before, during, or after assembly, do not constitute further fabrication, and shall not preclude the application of the exemption. The following are examples of operations which are incidental to the assembly process:

* * * * * * *

(6) Cutting to length of wire, thread, tape, foil, and similar products exported in continuous length; separation by cutting of finished components, such as prestamped integrated circuit lead frames exported in multiple unit strips * * *.

Notwithstanding the fact that the cotton gusset material is cut at an angle, the cutting-to-length of the continuous rolls of the gusset material is a straight cutting operation which is not cutting to shape or a further fabrication that would exceed the parameters of 19 CFR 10.16(b)(6). Accordingly, we find that the cutting operation of the gusset material is an operation incidental to the assembly and should not preclude its eligibility under subheading 9802.00.90, HTSUS.

Holding:

Provided that the pantyhose components are formed and cut in the U.S. prior to export to Mexico, the pantyhose components assembled in Mexico as described above may be entered free of duty under subheading 9802.00.90, HTSUS, since they are exported in condition ready for assembly without further fabrication, have not lost their physical identity by change in form, shape, or otherwise, and have not been advanced in value or improved in condition abroad except by being assembled and except by operations incidental to the assembly process.

HRL 559961, HRL 559363, and HRL 732257 are hereby modified.

In accordance with 19 U.S.C. 1625, this ruling will become effective 60 days after its publication in the CUSTOMS BULLETIN. Publication of rulings or decision pursuant to section 625 does not constitute a change of practice of position in accordance with section 177.10(c)(1), Customs Regulations (19 CFR 177.10(c)(1)).

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is entered. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

MARVIN AMERNICK,
(for John Durant, Director,
Commercial Rulings Division.)

PROPOSED REVOCATION OF RULING LETTER RELATING TO CLASSIFICATION OF WOMEN'S KNITWEAR

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed revocation of classification ruling letter.

SUMMARY: Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke a ruling pertaining to the tariff classification of certain women's knitwear. Comments are invited on the correctness of the proposed ruling.

DATE: Comments must be received on or before December 12, 1997.

ADDRESS: Written comments (preferably in triplicate) are to be addressed to U.S. Customs Service, Office of Regulations and Rulings, Attention: Commercial Rulings Division, 1300 Pennsylvania Avenue. N.W., Washington, D.C. 20229. Comments submitted may be inspected at the same location.

FOR FURTHER INFORMATION CONTACT: Josephine Baiamonte, Textile Branch, (202) 927–2394.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pursuant to section 625(c)(1), Tariff Act of 1930 (19 U.S.C. 1625(c)(1)), as amended by section 623 of Title VI (Customs Modernization) of the North American Free Trade Agreement Implementation Act (Pub. L. 103–182, 107 Stat. 2057), this notice advises interested parties that Customs intends to revoke a ruling pertaining to the tariff classification of certain women's knitwear.

In Port Decision (PD) A86163, dated September 5, 1996, the tariff classification of a women's knit garment was determined to be as a pullover in heading 6110, Harmonized Tariff Schedule of the United States (HTSUS). This ruling letter is set forth in "Attachment A". Since that time, Customs has had a chance to review that decision and has determined that it is in error. The proper tariff classification for the women's knit garment, as is reflected in numerous Customs decisions, is in heading 6109, HTSUS, as a tank top. In essence, the garment has a number of features that are critical in creating the silhouette which is the distinguishing characteristic of a tank top.

Customs intends to revoke PD A86163 to reflect the proper classification of the women's knit garment as a tank top in heading 6109, HTSUS. Before taking this action, consideration will be given to any written comments timely received. Proposed Headquarters Ruling Letter (HQ) 960134 is set forth in "Attachment B" to this document.

Claims for detrimental reliance under section 177.9, Customs Regulations (19 CFR 177.9), will not be entertained for actions occurring on or alter the date of publication of this notice.

Dated: October 27, 1997.

JOHN ELKINS,
(for John Durant, Director,
Commercial Rulings Division.)

[Attachments]

[ATTACHMENT A]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Jamaica, NY, September 5, 1996.

CLA-2-61:K:TC:B6:I13 A86163
Category: Classification
Tariff No. 6110.20.2075

MS. ANGELA SAWYER
MAST INDUSTRIES, INC.
P.O. Box 9020
Andover, MA 01810

Re: The tariff classification of a ladies' garment from Hong Kong.

DEAR MS. SAWYER:

In your letter dated August 5, 1996, you requested a classification ruling.

The submitted sample, style number AK8737, is a pullover, manufactured from a 100% cotton knit fabric, which is constructed with more than nine stitches per 2 centimeters measured in the horizontal direction.

The pullover features a straight neckline, is sleeveless, and has shoulder straps which are less than two inches wide.

The applicable subheading for the pullover will be 6110.20.2075, Harmonized Tariff Schedule of the United States, which provides for sweaters, pullovers * * * and similar articles, knitted or crocheted, of cotton other, other, other women's or girls'. The duty rate will be 19.9% *ad valorem*. The sample is being returned as requested.

The pullover falls within textile category designation 339. As a product of Hong Kong, this merchandise is subject to quota and visa requirements based upon international textile trade agreements.

The designated textile and apparel category may be subdivided into parts. If so, visa or quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest that you check, close to the time of shipment, the *Status Report on Current Import Quotas (Restraint Levels)*, an internal issuance of the U.S. Customs Service, which is available for inspection at your local Customs office.

This ruling is being issued under the provisions of Part 177 of the Customs Regulations.

A copy of this ruling letter should be attached to the entry documents filed at the time this merchandise is imported. If the documents have been filed without a copy, this ruling should be brought to the attention of the Customs officer handling the transaction.

THOMAS MATTINA,
Area Director,
JFK Airport.

[ATTACHMENT B]

DEPARTMENT OF THE TREASURY,
U.S. CUSTOMS SERVICE,
Washington, DC.

CLA–2 RR:TC:TE 960134 jb
Category: Classification
Tariff No. 6109.10.0060 and 6109.90.8030

SUZANNE B. BARNETT, ESQ.
GRUNFELD, DESIDERIO, LEBOWITZ & SILVERMAN
245 Park Avenue, 33rd Floor
New York, NY 10167–3397

Re: Classification of women's knitwear; tank top; heading 6109, HTSUSA.

DEAR MS BARNETT:

This is in reply to your letter, dated January 13, 1997, on behalf of Mast Industries, Inc., regarding the classification under the Harmonized Tariff Schedule of the United States Annotated (HTSUSA) of certain women's knitwear.

Facts:

The merchandise at issue consists of two styles of women's knitwear separately classified in two rulings. Both garments, referenced styles AK8737 and 8737, are constructed from 2 by 2 rib knit fabric and feature shoulder straps measuring less than two inches, front and back square necklines, a straight bottom and a tank top silhouette (i.e., drop at the neckline, front and back, and deep armholes to form narrow straps). The only difference between the two garments is the fiber content; style AK8737 is constructed of 100 percent cotton knit fabric and style 8737 is constructed of 55 percent ramie and 45 percent cotton knit fabric.

In Port Decision (PD) A86163, dated September 5, 1996, style AK8737 was classified as a pullover in heading 6110, HTSUS. Subsequently, in PD A88767, dated November 13, 1996, the virtually identical garment, style 8737, was classified as a tank top in heading 6109, HTSUS. In your submission you request that this office reconcile these clearly inconsistent rulings.

Issue:

Whether the garments are properly classified in heading 6109, HTSUSA, in the provision for tank tops, or in heading 6110, HTSUSA, in the provision for pullovers?

Law and Analysis:

Classification of merchandise under the HTSUSA is governed by the General Rules of Interpretation (GRI). GRI 1 provides that classification shall be determined according to the terms of the headings and any relative section or chapter notes, taken in order. Merchandise that cannot be classified in accordance with GRI 1 is to be classified in accordance with subsequent GRI.

Heading 6109, HTSUS, provides for, among other things, tank tops. As the term "tank top" is neither defined in the Legal Notes to the HTSUS nor in the corresponding Explanatory Notes to the Harmonized Commodity Description and Coding System (EN), we look to the Guidelines for the Reporting of Imported Products in Various Textile and Apparel Categories, CIE 13/88 (1988), (herein *Guidelines)* for assistance. The term "tank top" as defined in the *Guidelines* state:

> * * * sleeveless with oversized armholes, with or without a significant drop below the arm. The front and the back may have a round, V, U, scoop, boat, square or other shaped neck which must be below the nape of the neck. The body of the garment is supported by straps not over two inches in width reaching over the shoulder. The straps must be attached to the garment and not be easily detachable. Bottom hems may be straight or curved, side-vented, or of any other type normally found on a blouse or shirt, including blouson or drawstring waists or an elastic bottom. The following features would preclude a garment from consideration as a tank top:
>
> 1) pockets, real or simulated, other than breast pockets;
> 2) any belt treatment including simple loops;
> 3) any type of front or back neck opening (zipper, button, or otherwise).

This definition is consistent with the definition found in Charlotte Mankey Calasibetta's *Essential Terms of Fashion* (1986) at 221:

> Similar to men's undershirt with U-neckline and deep armholes, shaped toward shoulder to form narrow straps; named for tank suit * * *.

Heading 6110, HTSUS, provides for, sweaters, pullovers, sweatshirts, waistcoats (vests) and similar articles, knitted or crocheted. As "pullover" is not defined in the *Guidelines*, we look to other sources. Those sources define a pullover garment as:

> a sweater with a round, crew, or V-neck, pulled over the head, as contrasted with a cardigan or coat sweater, which opens down the front. Also called *pull-on* or *slip-on sweater.* Charlotte Mankey Calasibetta, *Essential Terms of Fashion* at 211, (1986).
>
> garment that pulls over the head. Usually, a blouse or sweater. Mary Brooks Picken, *The Fashion Dictionary* at 291, (1973).

Before a determination can be made classifying a garment as a "tank top", certain basic features must be present. The fundamental features of a "tank top" require a drop below the neckline front and back, as well as deep armholes in order to form narrow straps. These features are critical in creating the **silhouette** which is the distinguishing characteristic of the tank top. In comparing the definitions of "tank top" and "pullover", it is clear that the physical characteristics of the subject merchandise are consistent with the above definitions of a tank top. Furthermore, the garments lack any features which would preclude a garment from being classified as a tank top.

Accordingly, both garments, referenced styles AK8737 and 8737, are properly classified as tank tops in heading 6109, HTSUS. PD A86163 is revoked to reflect the proper classification of this merchandise in heading 6109, HTSUS.

Holding:

Style AK8737 is classified in subheading 6109.10.0060, HTSUSA, which provides for T-shirts, singlets, tank tops and similar garments, knitted or crocheted: of cotton: women's or girls': tank tops: women's. The applicable rate of duty is 19.6 percent *ad valorem* and the quota category is 339.

Style 8737 is classified in subheading 6109.90.8030, HTSUSA, which provides for, singlets, tank tops and similar garments, knitted or crocheted: of other textile materials: other: women's or girls': other. The applicable rate of duty is 16.7 percent *ad valorem* and the quota category is 838.

The designated textile and apparel category may be subdivided into parts. If so, the visa and quota requirements applicable to the subject merchandise may be affected. Since part categories are the result of international bilateral agreements which are subject to frequent renegotiations and changes, to obtain the most current information available, we suggest that you check, close to the time of shipment, the *Status Report on Current Import Quotas (Restraint Levels)*, an internal issuance of the U.S. Customs Service which is updated weekly and is available at the local Customs office.

Due to the changeable nature of the statistical annotation (the ninth and tenth digits of the classification) and the restraint (quota/visa) categories, you should contact the local Customs office prior to importation of this merchandise to determine the current status of any import restraints or requirements.

JOHN DURANT,
Director,
Commercial Rulings Division.

U.S. Customs Service

Proposed Rulemaking

19 CFR Part 192

RIN 1515–AC19

EXPORTATION OF USED MOTOR VEHICLES

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of proposed rulemaking.

SUMMARY: This document proposes amendments to the Customs Regulations which relate to the exportation of used self-propelled vehicles. These amendments are being proposed to clarify the intent of the regulations and provide for uniformity and standardized procedures. They are also being proposed to conform the regulations to legislation which was enacted since the regulations were originally written. The overall objective of the proposed amendments is to more efficiently and effectively deter the export of stolen vehicles.

DATES: Comments must be received on or before December 29, 1997.

ADDRESSES: Comments (preferably in triplicate) may be submitted to Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., 3rd Floor, Washington, D.C. 20229, and may be inspected at the same location.

FOR FURTHER INFORMATION CONTACT: Hugh Austin, Outbound Process, Office of Field Operations, 202–927–3735.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Part 192 of the Customs Regulations (19 CFR Part 192) was established by the publication of T.D. 89–46 on April 18, 1989. These regulations implemented a provision of the Trade and Tariff Act of 1984 (19 U.S.C. 1627a) concerning the unlawful exportation of used self-propelled vehicles. Generally, that statute provides for civil penalties for the knowing importation or exportation, or attempted importation or exportation, of stolen self-propelled vehicles or equipment or any similar activity with respect to any self-propelled vehicle or part of such ve-

hicle from which the vehicle identification number (VIN) has been removed, obliterated, tampered with or altered. The statute also directs that regulations be prescribed by the Secretary of the Treasury with regard to the procedures for the lawful exportation of used self-propelled vehicles. In implementing the existing regulations, both Customs and the public have encountered several difficulties which this proposed amendment to the regulations is intended to resolve.

PROPOSED AMENDMENTS

The first proposed amendment to the existing regulations is to require the presentation to Customs of the original or certified copy of a title as proof of ownership of the vehicle to be exported. This is intended to eliminate a situation where there is a conflict between differences over a certified and a notarized copy of a title and the validity of each type of document. Certified copies can only be obtained from official issuing authorities. While the current regulations do not specifically address notarized copies, the proposed amendments explicitly disallow the use of notarized copies as proof of ownership. Customs field offices are currently accepting a variety of paperwork to establish ownership of vehicles presented for export. There is no national standard. Because all 50 states now have title laws, requiring the presentation of a title to show ownership will provide the field with a standard. By requiring that the documents be certified by the issuing authority, and not merely notarized, Customs will have a greater assurance of the authenticity of the documentation.

In instances when a vehicle owned by a foreign national and registered in a foreign country is being exported, where no title is available, Customs will require production of satisfactory proof of ownership by the exporter.

Realizing that there are instances where a party purchases a "new" car from a dealer and then immediately exports it without registering it in any state, and thus never receives a title in a state, Customs is making a provision for that situation by adding a document known as a "manufacturer's statement of origin" to the list of items which Customs will accept as proof of ownership. In those instances where a vehicle's purchaser does not intend to operate the vehicle in the U.S., Customs does not want to unnecessarily burden him by requiring that he obtain a state title. The manufacturer's statement of origin can provide a clear chain of possession from the manufacturer through the dealership to the present owner/exporter.

LEASED AND LIENED VEHICLES

Today, there are many vehicles being operated legally in the United States by people who do not have title to the vehicle. Since the original regulations in this area were issued, there has been a significant increase in the number of vehicles which are "on the road" by virtue of a lease rather than a sale. In instances where a vehicle has been leased to an operator, the title to the vehicle is never intended to pass to the opera-

tor, because the right to use the vehicle will revert to the owner upon termination of the lease. Another instance of legal operation of a vehicle by one not in possession of a title occurs when a vehicle is purchased on time. Most often, in that situation, title is retained by the finance company until the note is paid, at which time the title will be transferred to the owner/operator. In recent years, Customs has seen an increase in the frequency in which either leased or liened vehicles are attempted to be exported without the knowledge or authorization of the actual title holder—the owner or the lien-holder. If the potential exporter keeps either the lease or note payments current until after the vehicle is exported, a check to see whether the vehicle is stolen at the time of export will not reveal anything suspicious. This is because, at the time of exportation, the vehicle is not yet stolen. Once the vehicle has been taken out of the reach of the lienholder or owner, payments are stopped and the theft takes place. In order to prevent this from happening as easily as it does now, Customs is proposing to amend the regulations to require that a party attempting to export a vehicle that is either leased or is subject to a lien present a letter from the lienholder or owner stating that they have knowledge of and authorize the exportation of the vehicle.

Other Areas of Clarification

There are certain other areas where the current regulations have caused some uncertainty among groups or individuals, which this document proposes to clarify. In § 192.2(b) of the current regulations, the phrase "in other cases" appears at the beginning of the second sentence. Customs proposes to change the phrase to read "in cases other than automobiles, trucks, vans, minivans, motorcycles, and buses". This proposal is being made because some situations have developed where exporters and Customs field locations have interpreted the current phrase "in other cases" to mean situations in which individuals may present other types of documentation to prove ownership.

It is further proposed to amend § 192.2(b) by changing the word "available" to "required" in the phrase "or other document if a certificate of title is not available as a result of a state regulatory requirement". This change is being made to mandate presentation of titles at exportation if titles are required in the state in which the vehicle was purchased. All states require titles. However, some states only require titles for vehicles if they are of a certain age. Older vehicles, depending on the state, may or may not require titles. If the state does not require a title, then acceptable documentation for Customs export purposes would include a bill of sale.

Because of their growing popularity, and to prevent any misunderstanding about the intended coverage of the scope of vehicles intended to be covered by the regulation, the proposed regulation expressly includes vans and minivans as types of vehicles intended to be covered by the regulation.

TIME AND PLACE OF PRESENTATION

In an attempt to resolve some uncertainty which has arisen in the implementation of § 192.2(c) of the current regulations, which deals with the time when the required documentation must be presented, Customs is proposing the following amendments.

The current regulation states that the documentation must be presented at least 3 days prior to the lading or exportation of the vehicle. Questions have arisen whether that phrase meant calendar or business days. Those questions were made moot, however, by enactment of the Anti Car Theft Act of 1992. That Act amended the Tariff Act of 1930 by adding a new section, 19 U.S.C. 1646c, which requires that all persons or entities exporting used automobiles provide to Customs both the vehicle identification numbers and proof of ownership at least 72 hours before the export. In order to conform the regulatory requirements to the law and still provide port personnel the opportunity to examine vehicles which are being exported, it is proposed that the time for required presentation of documents in § 192.2(c) be changed to at least 72 hours, to include not less than 2 full business days for air or sea exports. The addition of the phrase "at the port of exit" is also being proposed as the place where documentation must be presented. There have been instances where documentation has been presented at a port which is not the exit port. The addition of this phrase is intended to remove any opportunity for confusion as to where the documentation is to be produced.

Because many vehicles are exported through land border ports, Customs is proposing to permit exporters to transmit copies of the required documentation by facsimile to the port of exit. This means that an exporter will not have to wait at the border for 72 hours after presenting the documentation. However, the original documents required will need to be presented, along with the vehicle, on the date of exit.

The proposed amendments change the terminology used in reference to the type of non-original documents which Customs will accept from "facsimile" to "copy." This change is being made to avoid confusion resulting from current usage of the word "facsimile"; the word is used often interchangeably with "FAX." By using the word "copy," Customs wishes to clarify that it intends to accept photocopies as well as "faxes." In order that the regulations will be consistent, it is proposed to amend paragraph (d) by replacing the word "facsimile" with the word "copy".

A new paragraph (e) is being proposed which states that each Port Director has the authority to establish a time and place for presentation of original documentation and inspection of vehicles. Customs believes that in order to implement the law, it is necessary to impose constraints on times when the original documentation and vehicles will be accepted. By giving the Port Director the authority to set times and places for acceptance of original documents, it is intended that processing of exported used vehicles will be more efficient for both Customs and exporters in this time of limited resources.

COMMENTS

Before adopting this proposal, consideration will be given to any written comments (preferably in triplicate) that are timely submitted to Customs. All such comments received from the public pursuant to this notice of proposed rulemaking will be available for public inspection in accordance with the Freedom of Information Act (5 U.S.C 552), § 1.4, Treasury Department Regulations (31 CFR 1.4), and § 103.11(b), Customs Regulations (19 CFR 103.11(b)), on regular business days between the hours of 9:00 a.m. and 4:30 p.m., at the Regulations Branch, U.S. Customs Service, 1300 Pennsylvania Avenue, NW., 3rd Floor Washington, D.C.

REGULATORY FLEXIBILITY ACT

In so far as the proposed amendment is intended to assist Customs exercise its law enforcement responsibilities with a minimum burden on legitimate exporters of used vehicles, pursuant to the provisions of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.),* it is certified that the amendment, if adopted, will not have a significant economic impact on a substantial number of small entities. Accordingly, it is not subject to the regulatory analysis or other requirements of 5 U.S.C. 603 and 604.

EXECUTIVE ORDER 12866

The proposed amendment does not meet the criteria for a "significant regulatory action" under E.O. 12866.

PAPERWORK REDUCTION ACT

The collection of information contained in this rulemaking has been submitted to the Office of Management and Budget (OMB) in accordance with the Paperwork Reduction Act of 1995. (44 U.S.C. 3507).

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless the collection of information displays a valid control number.

The clarification of the collection of information in these regulations is in § 192.2. All information required by this proposed amendment is contained or identified in the above-cited section. This information is to be maintained and provided in the form of documents which are necessary to ensure that the Customs Service will be able to effectively administer the laws it is charged with enforcing while, at the same time, imposing a minimum burden on the public it is serving. Respondents or recordkeepers are already required by state statute or regulation to maintain or have most of the information covered in this proposed regulation. The likely respondents or recordkeepers are business organizations and individuals, including exporters.

Estimated total annual reporting and/or recordkeeping burden: 83,330 hours.

Estimated average annual burden per respondent/recordkeeper: 10 minutes.

Estimated number of respondents and/or recordkeepers: 500,000.

Estimated annual frequency of responses: 1.

Comments concerning the collections of information should be sent to the Office of Management and Budget, Attention: Desk Officer of the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, D.C. 20503. A copy should also be sent to the Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service, 1300 Pennsylvania Avenue, N.W., Washington, D.C. 20229. Comments should be submitted within the time frame that comments are due regarding the substance of the proposal.

Comments are invited on: (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or startup costs and costs of operations, maintenance, and purchase of services to provide information.

Drafting Information

The principal author of this document was Peter T. Lynch, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices participated in its development.

List of Subjects in 19 CFR Part 192

Customs duties and Inspection, Exports, Motor Vehicles, Penalties.

Proposed Amendments

It is proposed to amend Part 192, Customs Regulations (19 CFR Part 192), as set forth below:

PART 192—EXPORT CONTROL

1. The authority citation for Part 192, Customs Regulations (19 CFR Part 192), is proposed to be revised to read as follows:

Authority: 19 U.S.C. 66, 1624, 1627a, 1646a, 1646c.

2. It is proposed to amend § 192.2 by revising paragraphs (b), (c) and (d) and adding a new paragraph (e) to read as follows:

§ 192.2 Requirements for exportation.

* * * * * * *

(b) *Documentation required.*—(1) *For certain registered vehicles owned by the exporter.* In the case of automobiles, trucks, vans, minivans, motorcycles and buses owned by the exporter and registered in any state of the United States, the following documentation is required to be presented at the port of exit:

(i) An original or certified copy of the Certificate of Title from a state issuing authority. A notarized copy of the Certificate of Title is not acceptable; and

(ii) Two copies of the original or certified copy of the Certificate of Title.

(2) *For certain vehicles purchased with the intention of exportation.* In the case of automobiles, trucks, vans, minivans, motorcycles and buses purchased from a dealer and not registered in any state of the United States because of plans to immediately export, an original manufacturer's statement of origin and two copies of the manufacturer's statement of origin are required to be presented at the port of exit.

(3) *For certain vehicles where a Certificate of Title is not required as a result of state or foreign country requirements.* In the case of automobiles, trucks, vans, minivans, motorcycles and buses owned by a foreign national and registered in a foreign country or instances in which a state does not require a Certificate of Title, an original document that provides satisfactory proof of ownership by the exporter and two copies of that document are required to be presented at the port of exit.

(4) *For certain leased or liened vehicles.* In the case of automobiles, trucks, vans, minivans, motorcycles and buses that are leased or on which there is a lien, a letter from the lienholder or, if leased, the owner stating that the lienholder or owner agrees that the vehicle may be exported is required to be presented at the port of exit. The letter must include the name, address and telephone number of the lienholder or owner and must include the Vehicle Identification Number of the vehicle.

(5) *For other self-propelled vehicles.* In the case of self-propelled motorized vehicles other than automobiles, trucks, vans, minivans, motorcycles, and buses, an original or certified Certificate of Title, memorandum of ownership, or right of possession, or any other document sufficient to prove lawful ownership, such as an original bill of sale or an original sales invoice, as well as 2 copies of the document, shall be presented.

(c) *When presented.*—(1) *Exportation by vessel or aircraft.* If the vehicle is to be transported by vessel or aircraft, all documentation and the vehicle must be presented to Customs at the port of exit at least 72 hours, to include not less than 2 full business days, prior to lading in accordance with such directives as may be issued by the Port Director pursuant to paragraph (e) of this part.

(2) *Exportation at land border port.* If the vehicle is to be transported by rail, highway, or under its own power, copies of the required documentation may be sent or transmitted to the port of exit in a manner so that they will arrive at least 72 hours prior to the intended time of exportation. The original documents need to be presented at time of exit along with the vehicle. The vehicle and original documentation shall be presented at the port of exportation in accordance with such directives as may be issued by the Port Director pursuant to paragraph (e) of this part.

(d) *Authentication of documentation.* Customs shall authenticate both copies of the documents submitted, one of which shall remain in

the possession of the exporter and one of which shall be collected by Customs. Authentication will include the stamping of the copies of the documents with the date and time of presentation of the documents. The authenticated copy of the document will be the only acceptable evidence from the exporter of compliance with the requirements of this section.

(e) *Time and place of document presentation*. Each Port Director shall establish and publicize the hours and location at which original documentation required by this section will be received and the hours and place for presentation of the vehicle.

GEORGE J. WEISE,
Commissioner of Customs.

Approved: September 24, 1997.
JOHN P. SIMPSON,
Deputy Assistant Secretary of the Treasury.

[Published in the Federal Register, October 29, 1997 (62 FR 55764)]

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